Oregon
John A. Kitzhaber, M.D., Governor

Department of Transportation
Transportation Building
Salem, OR 97310

FILE CODE:

April 6, 1998

City of Elgin
Attention: Joe Garlitz, City Recorder
PO Box 128
Elgin OR 97827

AGR

Enclosed for your records is a fully executed copy of an agreement to improve the NCL Imbler-Minam River Road Section and Cedar Street.

We have retained a fully executed copy of this agreement for the Department of Transportation's files.

Fran Neavoll

Fran Neavoll, Agreement Specialist
Construction Contracts Unit
Project Support Section

Enclosure

FN:sl

January 16, 1998

Misc. Contracts & Agreements
No. 16,137

COOPERATIVE IMPROVEMENT AGREEMENT

THIS AGREEMENT is made and entered into by and between THE STATE OF OREGON, acting by and through its Department of Transportation, hereinafter referred to as "State"; and CITY OF ELGIN, acting by and through its Elected Officials, hereinafter referred to as "City".

WITNESSETH

RECITALS

1. The Wallowa Lake Highway (State Highway 10) is a State Highway under the jurisdiction and control of the Oregon Transportation Commission and is routed through the corporate limits of the City over 8th Avenue and Albany Street. Cedar Street is a City Street under the jurisdiction and control of the City.

2. By the authority granted in ORS 366.770 and 366.775, State may enter into cooperative agreements with the counties and cities for the performance of work on certain types of improvement projects with the allocation of costs on terms and conditions mutually agreeable to the contracting parties.

NOW, THEREFORE, the premises being in general as stated in the foregoing RECITALS, it is agreed by and between the parties hereto as follows:

TERMS OF AGREEMENT

1. For the purpose of providing acceptable traffic circulation patterns on public highways and roads in the vicinity of the Wallowa Lake Highway and surrounding City street system, City and State plan and propose to provide the following improvements:

   a. State shall design and construct a preservation project and provide other safety improvements to the Wallowa Lake Highway from the North City Limits of Imbler to Minam River Road (AKA NCL Imbler – Minam River Rd. Section). The location of the project is approximately as shown on the attached map, marked Exhibit A, and by this reference made a part hereof.

TERMS OF AGREEMENT (Continuation)

b. City was granted a $25,000 Special City Allotment (Agreement # 14,780) in 1997 to construct an two inch overlay on Cedar Street from 5th Avenue to 8th Avenue. The location of project is approximately as shown on the attached map, marked Exhibit B, and by this reference made a part hereof.

2. The project described in paragraph 1a (Terms of Agreement) will be financed with funds available to the State.

3. The project described in paragraph 1b (Terms of Agreement) will be financed with Special City Allotment funds available to the City, which is limited to $25,000, and city funds if cost exceeds $25,000.

4. The terms of this agreement shall begin upon execution of the agreement by all parties and shall terminate upon completion of project and final payment.

STATE OBLIGATIONS

1. State shall conduct the necessary field surveys, environmental studies, traffic investigations, identify and obtain all required permits, and perform all preliminary engineering and design work required to produce plans, specifications and cost estimates for project described in paragraph 1a and 1b (Terms of Agreement).

2. State shall provide final plans, prepare contract and bidding documents, advertise for construction bid proposals, award all contracts, pay all contractor costs, furnish all construction engineering, technical inspection, and project manager services for the administration of the contract for project described in paragraph 1a and 1b (Terms of Agreement).

5. Upon completion of the project, State shall submit to City an itemized statement of the total actual costs and disbursements incurred in said project for work as described in paragraph 1b (Terms of Agreement). State shall contribute a maximum of $25,000 (City's total Special City Allotment Grant program allocation) toward these improvements. If actual cost of the work as identified in paragraph 1b (Terms of Agreement) is greater than total amount awarded to City through the Special City Allotment Program ($25,000), State shall bill the City for the additional costs. In the event that actual costs for this portion of the project are less than $25,000, excess shall be returned to the Special City Allotment Program.

STATE OBLIGATIONS (Continuation)

5. State shall, at its own expense, lay out and paint the necessary lane lines and erect the required directional and traffic-control signing for the project described in paragraph 1a (Terms of Agreement).

6. State shall relocate, or cause to be relocated, all existing utility conduits, lines, poles, mains, pipes, and other such facilities that are located on private property or within State jurisdiction where such relocation is necessary to conform such utilities or facilities to the plans for the project described in paragraph 1a (Terms of Agreement).

CITY OBLIGATIONS

1. City hereby grants State the right to enter onto and occupy City street right-of-way for the performance of construction of the project described in paragraph 1b (Terms of Agreement).

2. City shall, upon completion of the project described in paragraph 1b (Terms of Agreement), and upon receipt of a final billing from State, forward to State a lump sum payment for any actual costs above the Special City Allotment grant of $25,000.

3. Upon completion of project described in paragraph 1b (Terms of Agreement), City shall assume and be solely responsible for jurisdictional control and maintenance of said City street.

4. City, by execution of this agreement, does hereby give its consent as required by ORS 373.030 (2) to any and all changes of grade within the City limits, and give its consent as required by ORS 373.050 (1) to any and all closure of streets intersecting the highway, if any there be in connection with or arising out of the project described in paragraph 1a and 1b(Terms of Agreement).

5. City shall enter into and execute this agreement during a duly authorized session of its City Council.

GENERAL PROVISIONS

1. State and City agree and understand that a mutual review of the project plans and specifications, for the project described in paragraph 1a and 1b (Terms of Agreement), will be conducted prior to advertisement for construction bid proposals, and that City's prior written approval is necessary before such advertisement.

2. The contractor, its subcontractors, if any, and all employers working under this agreement are subject employers under the Oregon Workers' Compensation Law and shall comply with ORS 656.017, which requires them to provide Workers' Compensation coverage for all their subject workers.

3. Termination

a) Parties Right to Terminate for Convenience. This Agreement may be terminated at any time by mutual written consent of the parties.

b) State's Right to Terminate for Convenience. State may, at its sole discretion, terminate this Agreement, in whole or in part, upon thirty (30) days written notice to City.

c) State's Right to Terminate for Cause. State may terminate, in whole of in part, immediately upon notice to City, or at such later date as State may establish in such notice, upon the occurrence of any of the following events:

i) State's failure to receive funding, appropriations, limitations or any other expenditure authority at levels sufficient to pay for the work provided in the Agreement;

ii) Federal or State laws, regulations or guidelines are modified or interpreted in such a way that either the work under this Agreement, is prohibited, or State is prohibited from paying for such work from the planned funding source;

iii) City fails to provide its share of the cost of the project under paragraph 3, Terms of Agreement.

d) Any termination of this Agreement shall not prejudice any rights or obligations accrued to the parties before termination.

GENERAL PROVISIONS (continuation)

4. City shall comply with all federal, state and local laws, regulations, executive orders and ordinances applicable to the work under this Agreement, including, without limitation, the provisions of ORS 279.312, 279.314, 279.316, 279.320, and 279.555 which hereby are incorporated by reference. Without limiting the generality of the foregoing, City expressly agrees to comply with: (i) Title VI of the Civil Rights Act of 1964; (ii) Section V of the Rehabilitation Act of 1973; (iii) the American with Disabilities Act of 1990 and ORS 659.425; (iv) all regulations and administrative rules established pursuant to the foregoing laws; and (v) all other applicable requirements of federal and state civil rights and rehabilitation statutes, rules and regulations.

5. City shall, to the extent permitted by the Oregon Constitution and the Oregon Tort Claims Act, indemnify, defend, save, and hold harmless the State of Oregon, Transportation Commission and its members, Department of Transportation, its officers and employees from any and all claims, suits, and liabilities which may occur in the performance of this project.

6.This agreement and attached exhibits constitute the entire agreement between the parties on the subject matter hereof. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this agreement. No waiver, consent, modification or change of terms of this agreement shall bind either party unless in writing and signed by both parties and all necessary approvals have been obtained. Such waiver, consent, modification or change, if made, shall be effective only in the specific instance and for the specific purpose given. The failure of State to enforce any provision of this agreement shall not constitute a waiver by State of that or any other provision.

This project was approved by the Oregon Transportation Commission on October 15, 1997, as part of the Statewide Transportation Improvement Plan, page 156.

The Oregon Transportation Commission on December 17, 1997, approved Subdelegation Order No. 2, in which the Director grants authority to the Branch and Region Managers to approve and execute agreements for projects included in the Statewide Transportation Improvement Plan.

IN WITNESS WHEREOF, the parties hereto have set their hands and affixed their seals as of the day and year hereinafter written.

STATE OF OREGON, by and through its Department of Transportation

By [signature]
Region Manager

Date 3/18/98

APPROVED FOR LEGAL SUFFICIENCY

By [signature]
Asst. Attorney General

Date 3/30/98

CITY OF ELGIN, by and through its Elected Officials

By [signature]
Rick Smith Mayor

Date 3-10-98

By [signature]
Joe Garlitz City Recorder

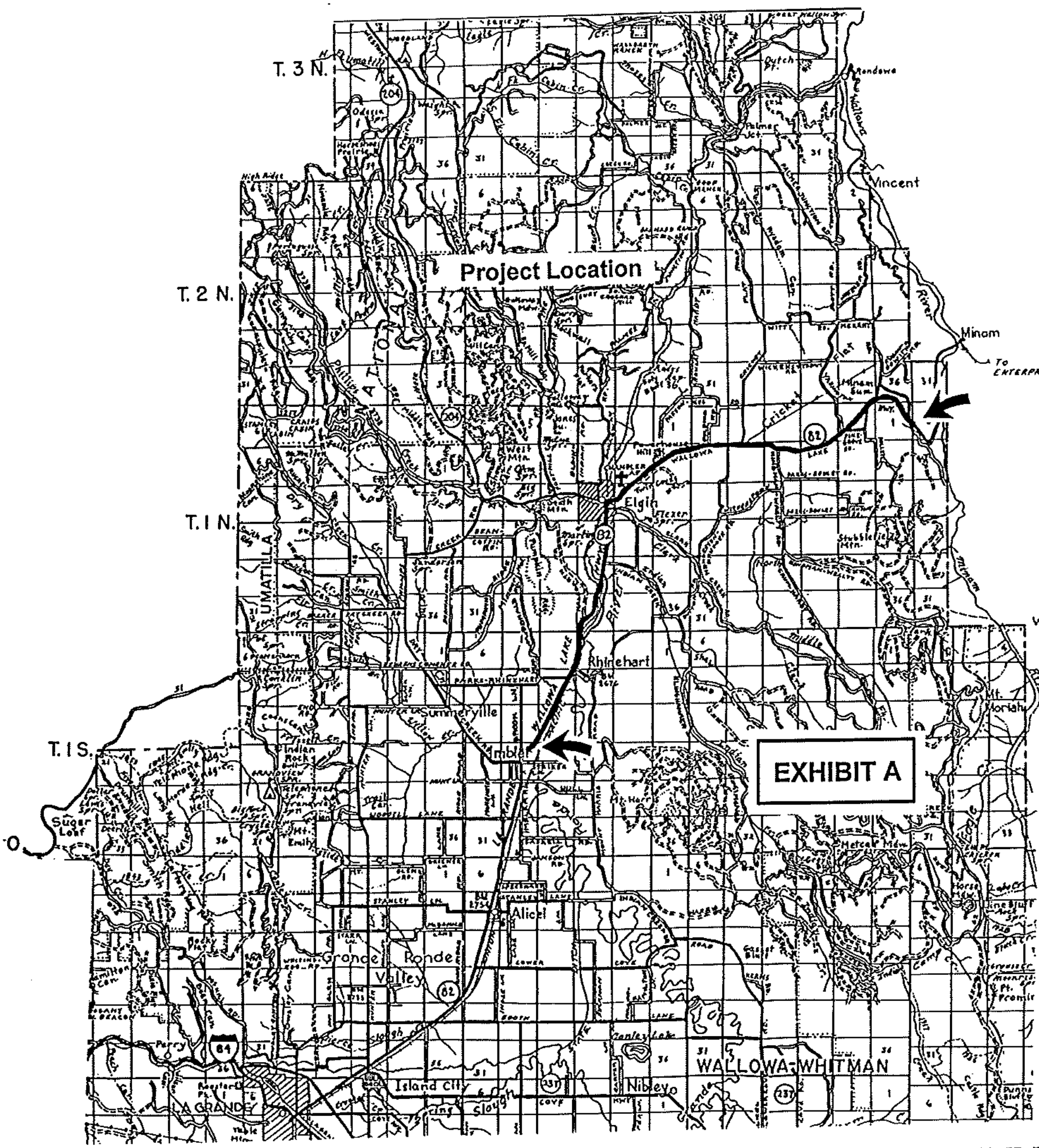
Date 3-11-98

REVIEWED FOR CITY

By
City Attorney

Date

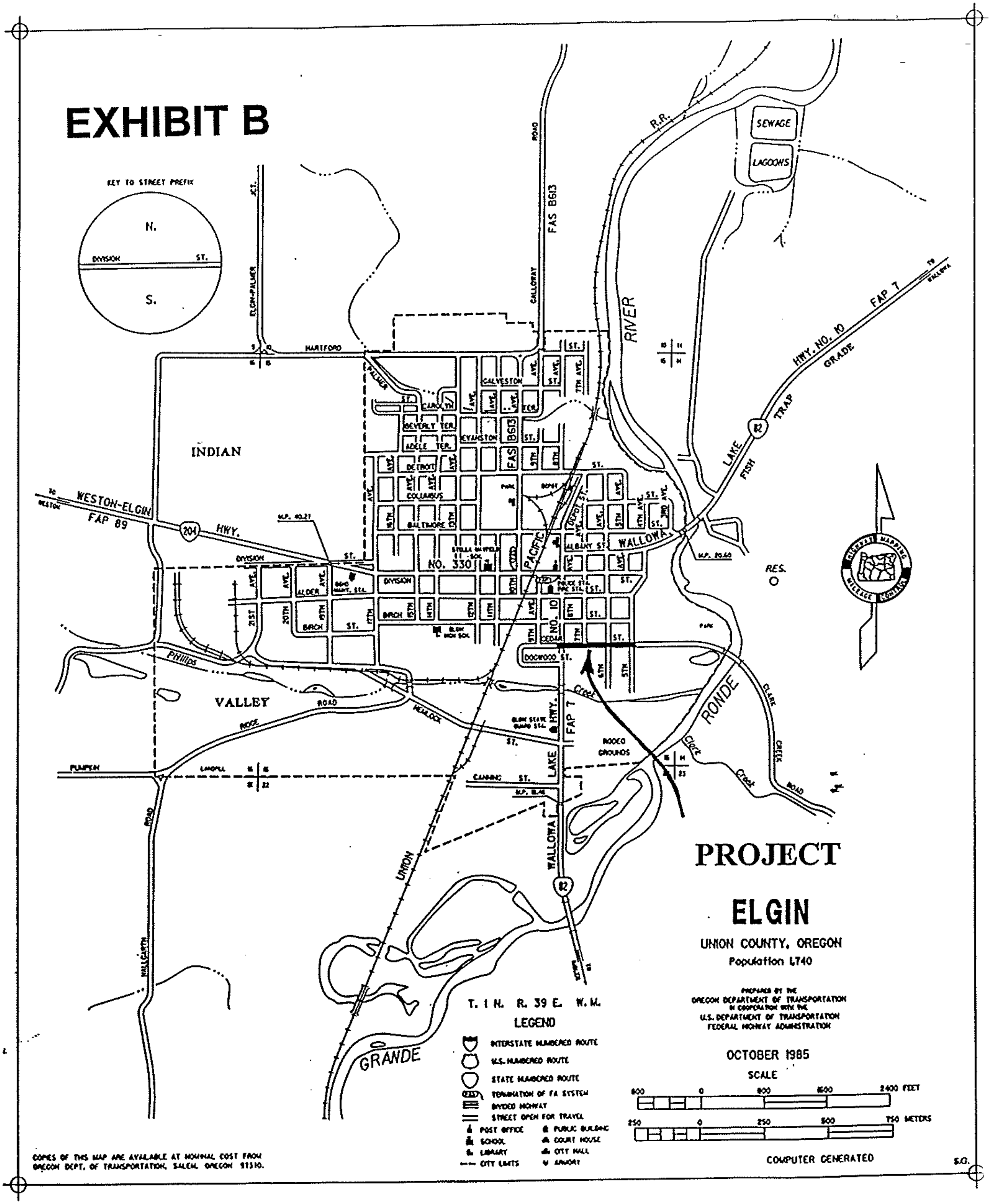
ELGIN.DOC
KEY NO. 08735
F: / 5802Shar / Agremnts / Union



UNION COUNTY
OREGON

EXHIBIT A

EXHIBIT B



PROJECT
ELGIN
UNION COUNTY, OREGON
Population 1,740
OCTOBER 1985
SCALE
COMPUTER GENERATED
T. 1 N. R. 39 E. W.M.
LEGEND
INTERSTATE NUMBERED ROUTE
U.S. NUMBERED ROUTE
STATE NUMBERED ROUTE
POST OFFICE
SCHOOL
LIBRARY
CITY LIMITS
PUBLIC BUILDING
COURT HOUSE
CITY HALL
ARMORY
KEY TO STREET PREFIX
N.
S.
DIVISION ST.
INDIAN
VALLEY
RIVER
GRANDE
RONDE
WESTON-ELGIN
FAP 89
HWY.
HWY. NO. 10
FAP 7
LAKE
FISH
TRAP
GRADE
WALLOWA
FAS B613
UNION
PACIFIC
NO. 330
SEWAGE
LAGOONS
R.R.
RES.
RODEO GROUNDS
HARTFORD
DIVISION
CANNING ST.
DOGWOOD ST.
CEDAR
Phillips
Creek
Clark
Creek
ROAD
ROSE
PUMPKIN
HALLGARTH